

REMARKS

Claims 1-17 are now pending in this application. Claims 1, 7, 14, and 17 are independent claims. Claims 1, 7, 14, and 17 have been amended. Claims 4-6 and 9 have been cancelled without prejudice.

The Examiner rejected claims 4-6, 10-11 and 14-17 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention.

The Examiner rejected claims 10 and 11 reciting that there is insufficient antecedent basis for the limitation in these claims. Accordingly, the word “Linux” has been deleted from these claims and replaced with the word “computer”.

The Examiner rejected claim 14 citing that there was insufficient antecedent basis for the limitations “the upper-level device driver” and the “middle-level device driver”. In response, claim 14 has been amended to recite “a computer operating system that contains a driver stack having three levels of drivers within its driver stack, generally comprising upper-level drivers, middle-level drivers, and host bus adapter drivers” providing insufficient antecedent basis for the limitations “the upper-level device driver” and the “middle-level device driver”.

The Examiner rejected claims 4-6, 10-11, and 17 for containing the trademark “Linux” as a limitation in these claims. Claims 4-6 have been cancelled and the trademark “Linux” has been deleted from the remaining claims.

The Examiner rejected claims 1-2, 4-5, 7-8, 12-13 and 17 under 35 U.S.C. 102(e) as being anticipated by Do et al. (US 20040172636). It is axiomatic that the standard for lack of novelty under 35 U.S.C. 102(2) is one of strict identity. To anticipate a claim for a patent, a single prior source must contain all of the claim’s essential elements.

Independent claims 1, 7, and 17 as amended now recite a method of transmitting computer data between a host computer and at least one computer data storage device by inserting a multiple-path driver between driver-stack levels of an operating system wherein the multiple-path driver intercepts device commands from upper-level drivers of said operating system of said host computer and replaces the commands of the upper-level drivers and references to the upper-level function pointers within the operating

system with commands and references to the multiple-path driver. Support for this limitation can be found in the specification on page 6, lines 1-23.

The Do et al. (US 20040172636) patent does not teach or suggest this method whereby the computer data storage devices only sees commands from the multiple path driver. Therefore, in view of the foregoing, Claims 1, 7 and 17 are believed allowable. Claims 4-5 have been cancelled and claims 2, 8, 12-13 are also believed to be allowable due to their dependence on Claims 1 and 7, respectively.

The Examiner rejected claim 3 under 35 U.S.C. 103(a) as unpatentable over Do et al. (US 20040172636) in view of Iwatani (US 20020023151). Claim 3 is a dependent claim of claim 1 and now includes the limitations of claim 1 as amended reciting “a method of transmitting computer data between a host computer and at least one computer data storage device by inserting a multiple-path driver between driver-stack levels of an operating system wherein the multiple-path driver intercepts device commands from upper-level drivers of said operating system of said host computer and replaces the commands of the upper-level drivers and references to the upper-level function pointers within the operating system with commands and references to the multiple-path driver.” Neither the Do et al. (US 20040172636) nor the Iwatani patent (US 20020023151) considered individually or in combination teaches or suggest this limitation. Therefore, in view of the foregoing, Claim 3 is believed to be allowable.

The Examiner rejected claim 9 under 35 U.S.C. 103(a) as unpatentable over Do et al. (US 20040172636) in view of Cota-Robles (US 20020143842). Claim 9 has been cancelled without prejudice.

The Examiner rejected claim 6, 10, 11, and 14 under 35 U.S.C. 103(a) as unpatentable over Do et al. (US 20040172636) in view of Iwatani (US 20020023151) and further in view of Cota-Robles (US 20020143842). Claim 6 has been cancelled without prejudice. As discussed earlier claim 7 has been amended to recite the limitation “wherein the multiple-path driver intercepts device commands from upper-level drivers of said operating system of said host computer and replaces the commands of the upper-level drivers and references to the upper-level function pointers within the operating system with commands and references to the multiple-path driver.” Neither Do et al. (US 20040172636), Iwatani (US 20020023151), nor Cota-Robles (US 20020143842)

considered individually or in combination teach this method of transmitting computer data between a host computer and at least one computer data storage device by inserting a multiple-path driver between driver-stack levels of an operating system. Also, the word "Linux" has been deleted from the claims as a limitation. In view of the foregoing claims 10, 11, and 14 are believed to be allowable due to their dependence on Claim 7.

The Examiner rejected claims 15 and 16 under 35 U.S.C. 103(a) as unpatentable over Do et al. (US 20040172636). In view of the foregoing claims 15 and 16 are believed to be allowable due to their dependence on Claim 7.

In view of the foregoing, Applicant respectfully submits that claims 1-3, 7-8, and 10-17 are now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

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Dated this 2nd day of February, 2007.